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Paper No. 8

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AUG 09 2004

OFFICE OF PETITIONS

In re Application of :  
Christopher Raber :  
Application No. 10/040,771 : DECISION ON PETITION  
Filed: January 9, 2002 :  
Attorney Docket No. 0756 C PCT Cont. US :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 25, 2003, (Certificate of Mailing dated June 30, 2003), to accept an unintentionally delayed claim under U.S.C. §§ 120 and 365(c) for the benefit of International Application No. PCT/DE00/02275, filed July 7, 2000.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.78(a)(3)."

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant application does not comply with item (2) above.

Petitioner has not submitted the full amount of the petition fee. Accordingly, the petition can not be considered on the merits. At the time of filing the petition, the petition fee was \$1,300. Petitioner submitted \$1,280. No authorization to charge a deposit account could be found in the application file.

Currently, the petition fee is \$1,330. If petitioner desires to file a renewed petition, petitioner must submit the balance of the petition fee due, or \$50.

Further correspondence with respect to this matter should be addressed as follows:

By mail:            Mail Stop Petitions  
                          Commissioner for Patents  
                          P.O. Box 1450  
                          Alexandria VA 22313-1450

By FAX:            (703) 872-9306  
                          Attn: Office of Petitions

Telephone inquiries concerning this matter should be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

*Brav/Dean Jr*

Charles Pearson  
Director  
Office of Petitions